

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2000-895

November 20, 2000

CONSOLIDATED EDISON ENERGY, INC.  
Application for License to Operate as a  
Competitive Electricity Provider

ORDER GRANTING LICENSE

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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## **I. SUMMARY**

In this Order, we license Consolidated Edison Energy, Inc. to operate as a competitive electricity provider in Maine pursuant to Chapter 305 of the Commission's Rules.

## **II. APPLICATION**

On November 1, 2000, Consolidated Edison Energy, Inc. (Con Ed Energy) applied to the Commission for a license to operate in Maine as a competitive electricity provider, as provided in Chapter 305. On November 13, 2000, Con Ed Energy filed additional information to supplement its earlier filing.

### **A. Type of Service Proposed**

Con Ed Energy's application states that the applicant seeks a license to enable it to provide "full requirements Standard Offer Service to all customer classes (residential, commercial & industrial)" in the transmission and distribution utility service territories of Bangor Hydro-Electric Company, Maine Public Service Company, and Central Maine Power Company.

### **B. Fee Paid**

With its application, Con Ed Energy paid a \$100 fee to the Commission, as required by section 2(C)(5) of Chapter 305.

## **III. FINANCIAL ISSUES**

Con Ed Energy proposes to operate only as a provider of Standard Offer Service in Maine. Pursuant to section 2(B)(1)(c) of Chapter 305, Con Ed Energy does not have to furnish a security instrument to the Commission, but must comply with the security requirements contained in the Commission's standard offer rule, Chapter 301.

## **IV. TECHNICAL ISSUES**

A. Showing of Technical Capability

Con Ed Energy, as a competitive electricity provider in Maine, must demonstrate it has the technical ability to enter necessary interconnection arrangements or contracts with Maine utilities, pursuant to section 2(B)(2)(a) of Chapter 305. In its application, Con Ed Energy provided information demonstrating its ability to enter into such arrangements or contracts, although it stated it had not yet reached such agreements. Accordingly, Con Ed Energy shall not act to enroll consumers or provide generation service until all required contracts have been executed consistent with Commission rules. Con Ed Energy shall notify the Commission when all such contracts have been executed.

Section 2(B)(2)(b) of Chapter 305 requires an applicant to demonstrate that it has the technical ability to secure generation or otherwise obtain and deliver electricity meeting all applicable requirements for the bulk power system control area in which the applicant would provide service. Con Ed Energy filed information to demonstrate its technical capability to meet that requirement within the Northeast Power Coordinating Council control area. We have reviewed that information and find that it complies with the requirements of Chapter 305. Con Ed Energy also documented that it will meet the NEPOOL transaction provisions required by section 2(B)(2)(b)(ii) of Chapter 305.

B. Resource Portfolio

Con Ed Energy, as a competitive electricity provider in Maine, pursuant to section 2(B)(4) of Chapter 305, must demonstrate its ability to meet the resource portfolio requirement of 35-A M.R.S.A. § 3210 and the portfolio requirement reporting rules in Chapter 311 of the Commission's rules. Con Ed Energy filed information to demonstrate its ability to meet these requirements. We have reviewed that information and find that it complies with the requirements of Chapter 305.

**V. CONSUMER PROTECTION ISSUES**

A. Showing of Fitness

In its application, Con Ed Energy provided information required by Chapter 305 section 2(B)(3) related to enforcement proceedings and consumer complaints. We have reviewed that information and find that it meets the requirements of Chapter 305.

B. Ability to Comply with Consumer Protection Rules

Con Ed Energy proposes to will operate only as a provider of Standard Offer Service in Maine. Pursuant to section 2(B)(6) of Chapter 305, Con Ed Energy is

not required to demonstrate its ability to comply with applicable consumer protection requirements.

C. Do-Not-Call List

Chapter 305 section 4(l) states that “[t]he Commission will maintain or cause to be maintained a ‘Do-Not-Call’ list of customers who have requested -- orally, in writing, or by commercially accepted electronic means -- that they not receive telemarketing calls from competitive electricity providers.” We require that licensees use do-not-call list mechanisms already in place nationally to satisfy that requirement. To the extent that it telemarkets to Maine consumers, Con Ed Energy shall comply with the following requirements.

Con Ed Energy must comply with the requirements of the Telephone Consumer Protection Act,<sup>1</sup> the Telemarketing and Consumer Fraud and Abuse Prevention Act,<sup>2</sup> and related rules of the Federal Communications Commission<sup>3</sup> and Federal Trade Commission.<sup>4</sup> Con Ed Energy must comply with those requirements and must maintain its own do-not-call list as required by those laws and rules, for all intrastate and interstate telemarketing of Maine consumers, including both residential and business consumers. Con Ed Energy shall not telemarket to Maine consumers on that list, as required in Chapter 305 section 4(l)(1). Con Ed Energy shall update its do-not-call list at least monthly, and maintain copies of that list for at least six months. Con Ed Energy shall provide a copy of that list to the Commission upon request.

Further, each month, Con Ed Energy must obtain listings of Maine consumers who have arranged to be included on the do-not-call list maintained by the Telephone Preference Service of the Direct Marketing Association, Inc.<sup>5</sup> Con Ed Energy shall not telemarket to Maine consumers on that list, as required in Chapter 305 section 4(l)(1).

D. Other Consumer Protections

Competitive electricity providers must provide certain protections to consumers. As a condition of licensing, Con Ed Energy:

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<sup>1</sup>47 U.S.C. § 227

<sup>2</sup>15 U.S.C. §§ 6101-6108

<sup>3</sup>47 CFR 64.1200

<sup>4</sup>FTC Telemarketing Sales Rule, 16 CFR Part 310

<sup>5</sup>Telephone Preference Service, Direct Marketing Association, Inc., P.O. Box 9014, Farmingdale, NY 11735-9014

1. shall obtain a consumer's authorization before serving the consumer;
2. may not release to any other entity, other than for purposes of debt collection or credit reporting pursuant to state and federal law or to law enforcement agencies pursuant to lawful process, any personal information regarding a customer, including name, address, telephone number, usage and historical payment information, without the consent of the customer;
3. must comply with the provisions of the Maine Unfair Trade Practices Act, Title 5, chapter 10;
4. may not collect or seek to collect unreasonable costs from a customer who is in default;
5. must comply with all applicable provisions of the federal Equal Credit Opportunity Act, 15 United States Code, Sections 1691 to 1691f;
6. may not initiate a telephone solicitation call to a consumer who has notified the competitive electricity provider of the consumer's wish not to receive telephone solicitation calls made by or on behalf of the competitive electricity provider;
7. must provide at least once annually to a customer any information disclosures required by the Commission by rule; and
8. must comply with any other applicable standards or requirements established by the Commission by rule.

35-A M.R.S.A. § 3203(4-A).

## **VI. ADDITIONAL PROVISIONS**

Con Ed Energy must comply with all applicable requirements and limitations in Chapter 305 not explicitly waived in this Order. Con Ed Energy must also comply with all requirements and limitations in other applicable Commission rules, including any applicable future changes in Maine laws and Commission rules, and in other parts of this Order.

## **VII. ORDERING PARAGRAPHS**

Accordingly, we

1. license Consolidated Edison Energy, Inc. as a competitive electricity provider pursuant to Chapter 305 of the Commission's Rules; under this license, Consolidated Edison Energy, Inc. may not provide any service except for Standard Offer Service in the service territories of Bangor Hydro-Electric Company, Maine Public Service Company, and Central Maine Power Company in Maine;
2. order Consolidated Edison Energy, Inc. to comply with all Do-Not-Call List requirements contained in Part V(C) of this Order to the extent that it telemarkets to Maine consumers;
3. order Consolidated Edison Energy, Inc. to observe all other consumer protection requirements contained in Part V(D) of this Order; and
4. order that this license is effective on the date of this Order and valid until revoked by the Commission pursuant to section 3(A)(4) of Chapter 305, or abandoned by the licensee pursuant to sections 2(C)(9) and 2(C)(11) of Chapter 305 of the Commission's Rules.

Dated at Augusta, Maine, this 20<sup>th</sup> day of November, 2000.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent  
   Diamond

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.